

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA CITY COUNCIL  
HELD AT CITY HALL  
MARCH 1, 1999 - 7:00 P.M.**

**ROLLCALL** Answering rollcall were Members Faust, Hovland, Maetzold and Mayor Smith.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Maetzold and seconded by Member Faust approving the Council Consent Agenda as presented and amending the Agenda Item IV.D. to three (3) 1999 Crown Victoria Squad Cars and amending the Minutes of February 16, 1999.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**MINUTES OF THE REGULAR MEETING OF FEBRUARY 16, 1999, APPROVED AS AMENDED** Mayor Smith noted Ted Volk asked that his comments during the discussion of Ordinance No. 1999-4, Amending Section 900 of the Edina City Code Allowing Issuance of On-Sale Intoxicating Liquor Licenses Within the city of Edina and Recodifying Section 900 in the draft Minutes of February 16, 1999, be amended to depict his comments more clearly. **Member Maetzold made a motion approving the Minutes of February 16, 1999, as amended.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**RESOLUTION ADOPTED APPROVING PROJECTED USE OF FUNDS FOR 1999 URBAN HENNEPIN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM** Affidavits of Notice were presented, approved and ordered placed on file. Following due notice given the City Council conducted a public hearing on the Community Development Block Grant (CDBG) Program for 1999.

**Presentation by Planner**

Planner Larsen reviewed the 1999 CDBG entitlement for Edina of \$182,318 which reflects a \$476 increase from the 1998 entitlement of \$181,842. In keeping with previous years' requirements, the human services portion of the budget may not exceed 20% of the entitlement with the remaining 80% directed toward community development. Therefore, Edina's human services budget may not exceed \$36,464 allowing \$145,854 to be directed toward community development. Planner Larsen outlined the proposed 1999 CDBG Budget:

**Community Development**

Rehabilitation of Private Property	\$80,000
Acquisition for Scattered Site Affordable Housing	\$65,854

**Human Services**

H.O.M.E.	\$17,400
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Daycare	\$17,448
CASH Homeline	<u>\$ 1,616</u>
<b>Total 1999 Budget</b>	<b>\$182,318</b>

Planner Larsen stated the housing rehabilitation funds will go toward assisting five to ten eligible homeowners make structural improvements to their homes with a maximum of \$15,000 available per loan. Acquisition for scattered site affordable housing funds are planned to assist development of affordable owner or renter occupied housing in keeping with Edina's participation in the Minnesota Livable Communities Act.

The 1999 requests for human services funding have come from the three agencies Edina has historically worked with, namely: Senior Community Service or H.O.M.E., Greater Minneapolis Daycare Association (GMDCA), and CASH Homeline. Requests from the three agencies total \$39,400, exceeding the maximum allowed. In an effort to fairly distribute the funds causing the least disruption to ongoing activities, the planning staff proposed the following budget, which has been reviewed and endorsed by the Human Relations Commission:

<u>Agency</u>	<u>1998 Budget</u>	<u>1999 Request</u>	<u>1999 Proposed Budget</u>
H.O.M.E	\$17,400	\$17,400	\$17,400
Daycare	\$17,400	\$18,000	\$17,448
CASH Homeline	<u>\$ 1,568</u>	<u>\$ 3,500</u>	<u>\$ 1,616</u>
<b>TOTAL</b>	<b>\$36,368</b>	<b>\$39,400</b>	<b>\$36,464</b>

Member Faust asked why GMDC served only two families with funding of \$17,400 during 1998. Planner Larsen deferred to the staff of the GMDCA. Mayor Smith added he thought this question had arisen in 1998 and the reason for the low number of families served resulted from the time lag working through other entitlements before using the CDBG monies.

Jim Nikolai of the GMDCA, explained that there has been a roll-over of funds and that the association is usually working with two years' allocations at any one time. He noted that last year the legislature increased childcare subsidies for non-AFDC and non-welfare recipients. This was a temporary boost to subsidies and is expected to be gone by the summer of 1999. GMDCA anticipates needing the requested allocation plus their reserves to subsidize persons from Edina's waiting list. Mr. Nikolai added GMDCA would be happy to come back with a report on their situation.

Mayor Smith asked what the expectation is regarding the fund balances from 1997 and 1998. He noted the request before the Council is to approve a budget and asked staff if the budget could be amended at a later date. Planner Larsen confirmed that an amendment could be made if deemed necessary later.

Member Maetzold asked how the City publicizes the CASH service and if all the private rehabilitation loans are due upon sale of the house. Planner Larsen explained that ABOUT

TOWN is the primary source of advertising the programs. He also noted that originally rehabilitation loans were grants of potential grants, but now they are required to be paid at the time of sale.

Member Hovland introduced the following resolution and moved its adoption:

**RESOLUTION APPROVING PROJECTED USE OF FUNDS FOR 1999  
URBAN HENNEPIN COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT  
PROGRAM AND AUTHORIZING SIGNATURE OF SUBRECIPIENT AGREEMENT  
WITH HENNEPIN COUNTY AND ANY THIRD PARTY AGREEMENTS**

WHEREAS, the City of Edina, through execution of a Joint Cooperation Agreement with Hennepin County, is cooperating in the Urban Hennepin County Community Development Block Grant Program; and

WHEREAS, the City of Edina developed a proposal for the use of Urban Hennepin County CDBG funds made available to it, and held a public hearing on March 1, 1999, to obtain the views of citizens on local and Urban Hennepin County housing and community development needs and priorities the City's proposed use of \$182,318 from the 1999 Urban Hennepin County Community Development Block Grant.

BE IT RESOLVED, that the City Council of Edina approves the following projects for funding from the 1999 Urban Hennepin County Community Block Grant program and authorized submittal of the proposal to Hennepin County for review and inclusion in the 1999 Urban Hennepin County Community Block Grant Program.

<u>Project</u>	<u>Budget</u>
Rehabilitation of Private Property	\$80,000
Acquisition for Scattered Site Affordable Housing	\$65,854
Housing & Outdoor Maintenance for the Elderly, H.O.M.E.	\$17,400
Daycare	\$17,448
C.A.S.H. Homeline	<u>\$1,616</u>
Total	\$182,318

BE IT FURTHER RESOLVED , that the City Council hereby authorizes and directs the Mayor and City Manager to execute the Subrecipient Agreement and any required Third Party Agreement on behalf of the City.

ADOPTED this 1st day of March, 1999.

Attest: \_\_\_\_\_  
Debra A. Mangen, City Clerk  
Member Maetzold seconded the motion.  
Rollcall:  
Ayes: Faust, Hovland, Maetzold, Smith  
Motion carried.

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Glenn L. Smith, Mayor

\*HEARING DATE OF MARCH 15, 1999, SET FOR PLANNING MATTERS Motion made by Member Maetzold and seconded by Member Faust setting March 15, 1999, as hearing date for planning matters:

1. Conditional Use Permit - Our Lady of Grace Church, 5071 Eden Avenue
2. Conditional Use Permit - ISD 273 - Cornelia Elementary (7000 Cornelia Drive)
3. Final Development Plan - Northwest Athletic Club (7300 Bush Lake Road)

Motion carried on rollcall vote - four ayes.

ORDINANCE NO. 1999-4 ADOPTED - AN ORDINANCE AMENDING SECTION 900 OF THE EDINA CITY CODE ALLOWING ISSUANCE OF ON-SALE INTOXICATING LIQUOR LICENSES WITHIN THE CITY OF EDINA AND RECODIFYING SECTION 900; ORDINANCE NO. 1999-5 ADOPTED - AN ORDINANCE SETTING THE ON-SALE INTOXICATING LIQUOR LICENSE FEE; AND RESOLUTION ADOPTED GRANTING PREFERENCE TO MARCH 16, 1999 FOR ON-SALE APPLICATIONS OF EXISTING WINE LICENSEE IN THE PROPER ZONING DISTRICTS

Mayor Smith noted that the Council had a public hearing at the last Council meeting and directed staff to present draft ordinance revisions. Mayor Smith noted receipt of letters from: 1) Boyd Stofer of United Properties, voicing concern regarding the ownership restriction in the proposed liquor ordinance; and Jay Stieber, Big Bowl, Inc., protesting that the proposed \$11,000 fee for an on-sale intoxicating liquor license is too high. Mayor Smith stated the City held the election in the proper way and has invested a great deal of time and money in developing an appropriate liquor ordinance and fee for Edina. Mayor Smith noted his intention to ensure that all Edina tax payers do not subsidize the cost of liquor licensing. He said every year hearings are held to review the cost of licenses, fees, and the entire City budget. During that annual review the Council has directed staff to research and support City fees. Mayor Smith noted the Police Chief's report on the proposed fee. He reported that Member Kelly although absent had informed the Mayor of his support of the liquor ordinance and the fee ordinance. Mayor Smith asked the City Manager to briefly review the changes made to the ordinance since the February 16<sup>th</sup> meeting.

Manager Hughes noted the following changes to the proposed ordinance:

- Page 5 - Eliminated that the certified public accountant must be licensed in the State of Minnesota; therefore, any CPA would satisfy the requirement for filing the affidavits.
- Page 6 - Included language that permits the City Clerk to require the deposit of additional investigation fees before proceeding with an investigation if found that the initial deposit does not cover the cost of the investigation.
- Page 7 - Added a clause that requires a person meet the requirements of Section 160 of the Code to be eligible to receive a liquor license.
- Page 8 - Two changes to paragraph "N: deleted "Fixed Sum" as an adjective for rental agreements, so any type of rental agreement would not constitute an ownership interest, and secondly a grandfather clause stating that "a person having an interest in two or more premises holding wine licenses issued by the City that were in effect on December 31, 1998 may apply for and the Council may grant an On-Sale Intoxicating Liquor License for such premises.""

- Page 10 - Hours of Sale have been modified in response to the concern raised by Edina resident Ted Volk. Manager Hughes noted that the question asked of voters at the November 1998 referendum stated "Shall the City of Edina be authorized to issue licenses to hotels and restaurants to sell intoxicating liquor between the hours of 12 o'clock noon and 12 o'clock midnight on Sundays as provided in Minnesota Statutes, Section 340.504?" The ordinance originally proposed stated the hours of sale would be 10:00 a.m. on Sundays until 1:00 a.m. on Mondays. This has been changed to read 12:00 noon until 12:00 midnight on Sundays for establishments holding an On-sale Intoxicating License and a Sunday On-sale License. However, establishments holding a Wine license or an On-Sale Club License and Sunday On-Sale License may serve between the hours of 10:00 a.m. and 12:00 midnight on Sundays.
- Page 10 - Hours of Consumption have been modified to read that consumption shall be limited to thirty minutes following the cessation of sale.

Member Maetzold asked what the Minnesota Clean Air Act has to do with the time of sale. Attorney Gilligan replied that this was the condition to extend the hours on Sunday under Minnesota Statutes.

Member Faust asked what the legal implications of allowing clubs and wine establishments to serve from 10:00 a.m. on Sundays, in light of the question on the November ballots. Attorney Gilligan responded that if the hours of sale were going to be expanded beyond 12:00 midnight, you have to hold a public hearing on the expansion. But it is not necessary to hold a hearing for the club and wine licensees serving at 10:00 a.m. on Sunday because they had already been selling during that time, and changing the hours of sale for wine and club licensees would be a limit, not an expansion.

Member Hovland stated he intended to vote for the ordinance. He commended the Mayor and staff for the process and ordinance. Member Hovland stated there was only one thing left that bothered him; and that was not allowing entities with multiple ownerships to be licensed. It bothered him in the sense that the licenses have no value, that we are in a world where multiple ownership of properties is a reality. We have national cuisine concepts coming into Edina; people may be partnering on concepts (being the majority shareholder in one corporation and minority shareholders in another corporation). Member Hovland stated his belief that disallowing multiple ownerships defies the reality of the marketplace, especially when the licenses have an annual renewal and no salable value.

Mayor Smith acknowledged Member Hovland's concern stating his belief the Council should initially move slowly, knowing that the ordinance can be revised if a need becomes apparent in the future.

Member Maetzold stated that he thinks allowing restaurants and hotels to serve liquor is not going to bring a great deal of change. We are going to be offering a little wider choice to diners in Edina's restaurants and perhaps an opportunity for some restaurants to increase income. But, passage of the ordinance signals a change within the community. It signals that residents have different needs and views of what they see. Member Maetzold commended

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all involved staff, community members, and Council Members for the careful positive approach they have all taken in working on this issue.

Mayor Smith agreed with Member Maetzold's comments and added his praise of Edina's existing wine licensees. He noted that since the first wine and beer license ordinance was passed thirteen years ago these licensees have been exemplary; and he believes they will continue to operate quality establishments. Mayor Smith cautioned the licensees that the fees charged are in their hands, because the fees will reflect the costs of administration and enforcement of the ordinances. Mayor Smith asked Manager Hughes to comment on the recommendations for the preference period.

Manager Hughes stated that staff would propose that if the Council adopts the resolution granting a preference period to existing wine licensees to upgrade their licenses during the next fifteen days, it also allows the existing wine licensees to offset the amount of their wine license fees from the initial on-sale fees. Also because these establishments have just completed their annual renewal investigation, staff suggests waiving the \$500 investigation fee, upon receipt of a certificate stating that all ownership interest is still current for the upgraded application. Council consensus was to allow staff to proceed as outlined.

**Member Maetzold moved second reading of Ordinance No.1999-4 as follows:**

**EDINA ORDINANCE NO. 1999-4  
AN ORDINANCE ALLOWING ISSUANCE  
OF ON-SALE INTOXICATING LIQUOR LICENSE  
AND RECODIFYING SECTION 900 OF THE  
EDINA CODE OF ORDINANCES.**

**THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:**

**Section 1. Section 900 of the City Code is hereby amended to read as follows:**

**Section 900 - Sale of Liquor and Wine; Licensing**

**900.01 Definitions.** Unless the context otherwise clearly indicates, the following terms shall have the stated meanings:

**Bar.** A counter or similar kind of place or structure at which wine or liquor is served.

**Commissioner.** The State Commissioner of Public Safety.

**Cafe.** See definition of "restaurant" in this Subsection.

**Club.** Any corporation duly organized under the laws of the State for civic, fraternal, social or business purposes, or for intellectual improvement, or for the promotion of sports, which shall have more than 50 members, and which for more than one year shall have owned, hired or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for the purpose, none of whose members, officers, agents or employees are paid, directly or indirectly, any compensation by way of profit from the distribution or sale of beverages to the members of the club

or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the directors or other governing body.

**Food Establishment License.** A license issued by the City under the provisions of Section 720 of this Code.

**Hotel.** An establishment where food and lodging are regularly furnished to transients and which has a dining room serving the general public at tables and having facilities for seating at least 30 guests at one time, and at least 50 guest rooms.

**Intoxicating Liquor.** Ethyl, alcohol, and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

**Intoxicating Malt Liquor.** Any beer, ale or other beverage made from malt by fermentation and containing more than 3.2 percent of alcohol by weight.

**License.** A license granted pursuant to this Section.

**Licensed Premises.** The area shown in the license application as the place where wine or liquor will be served or consumed.

**Liquor.** 3.2 percent malt liquor, intoxicating liquor, and intoxicating malt liquor.

**Meal.** Entrees and sandwiches offered on a restaurant menu.

**Off-Sale.** Retail sale in the original package for consumption away from the premises only.

**On-Sale.** Sale for consumption on the premises only.

**Original Package.** Any container or receptacle holding liquor, in which the liquor is corked or sealed at the place of manufacture.

**Restaurant.** An establishment, under control of a single proprietor or manager, having appropriate facilities for serving meals and where in consideration of payment, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests, and which has a seating capacity for not fewer than 30 guests at one time.

**Sale, Sell, Sold.** All barter, exchanges, gifts, sales, and other means used to obtain, dispose of, or furnish any liquor or wine or any other beverage, directly or indirectly, as part of a commercial transaction, in violation or evasion of the provisions of this Section, but does not include sales by State licensed liquor wholesalers selling to licensed retailers.

**State Established Legal Drinking Age.** For purposes of this Section, the State established legal age for consumption of liquor and wine is 21 years of age.

**3.2 Percent Malt Liquor.** Any potable beverage with an alcoholic content of more than one-half of one percent by volume and not more than 3.2 percent by weight.

**Wine.** Vinous beverage created by fermentation.

**900.02 Off-Sale Limited to Municipal Liquor Stores; Dispensary Established.** No intoxicating liquor, intoxicating malt liquor or wine shall be sold, or caused to be sold at off-sale within the City by any person, or by any store or establishment, or by any agent or employee of such person, store or establishment, except by the City and on the premises in the City occupied by the municipal liquor dispensary. There is hereby established a municipal liquor dispensary for the off-sale of liquor and wine. The dispensary shall be located at such suitable places in the City as the Council determines by resolution.

**Subd. 1 Management and Control.** The dispensary shall be under the control of the Manager. The Manager may appoint employees as deemed necessary to operate the dispensary in full compliance with this Section and State Law. No person under the State established legal drinking age shall be employed in the dispensary.

**Subd. 2 Surety Bond.** The Manager may require persons employed in the dispensary to furnish a surety bond to the City in the same manner as prescribed by Subsection 115.12 of this Code.

**Subd. 3 Hours of Operation.** Subject to the requirements of M.S. 340A.504, the hours of operation of the dispensary shall be established by resolution of the Council.

**Subd. 4 Manner of Conducting Sales.** All restrictions as to the manner of conducting sales as set forth in Subsection 900.07 shall apply to the municipal liquor dispensary.

**900.03 License Required.** No person, except wholesalers or manufacturers to the extent authorized by law, directly or indirectly, upon any pretense or by any device, shall sell at off-sale any 3.2 percent malt liquor or at on-sale any 3.2 percent malt liquor, intoxicating malt liquor, wine or intoxicating liquor without first having obtained a license.

**900.04 License Types.** Licenses shall be of nine types:

**A. On-Sale Club Liquor License** - permits the on-sale of liquor and wine at qualifying clubs. Only establishments possessing an On-Sale Club License on December 31, 1998, shall be eligible for receiving an On-Sale Club Liquor License pursuant to this Section.

**B. On-Sale Intoxicating Liquor License** - permits the on-sale of liquor and wine at qualifying hotels and restaurants. A qualifying hotel with multiple points of liquor sale and service within the hotel may operate under a single On-Sale Intoxicating Liquor License provided that the sale of food and liquor is under the exclusive ownership and control of the licensee. Any restaurant or other facility serving



liquor within a hotel which operates under separate ownership or control shall be considered a distinct entity for purposes of this Section.

C. Off-Sale 3.2 Percent Malt Liquor License - permits the off-sale of 3.2 percent malt liquor at certain retail establishments.

D. On-Sale 3.2 Percent Malt Liquor License - permits the on-sale of 3.2 percent malt liquor at certain retail establishments.

E. Wine License - permits the on-sale of wine at qualifying hotels and restaurants. (Intoxicating malt liquor may be sold on premises holding both a 3.2 percent malt liquor on-sale license and a wine license.)

F. Temporary On-Sale Intoxicating Liquor License - permits the on-sale of wine and intoxicating liquor at the Edina Foundation Ball. No more than one such license shall be issued during each calendar year.

G. Temporary On-Sale 3.2 Percent Malt Liquor License - permits the on-sale of 3.2 percent malt liquor at events sponsored by certain organizations. Not more than four such licenses shall be issued to any one location in a calendar year with at least 30 days between issue dates. Each license shall be issued for three consecutive days only.

H. Sunday On-Sale License - permits the on-sale of intoxicating liquor on Sunday. Only persons holding an On-Sale Intoxicating Liquor License or an On-Sale Club Liquor License may hold a Sunday On-Sale License

I. Manager's License - required for the individual or individuals in charge of a premises holding an On-Sale Intoxicating Liquor License or a Wine License.

900.05 License Application; Renewal. An application for any license required by this Section or the renewal of an existing license shall be made on forms provided by the Clerk. The provisions of Section 160 of this Code, shall apply to all licenses required by this Section, and to the holders of such licenses, except that licenses and renewals shall be granted or denied in accordance with Subsection 900.06. All applications shall be accompanied by the fees set forth in Subsection 900.07. Every license issued under this Section shall expire at 12:01 A.M. on April 1 following its date of issuance. Renewal applications shall be submitted at least 60 days but not more than 150 days before expiration of the license, provided that the renewal application for Manager's Licenses may be submitted 30 days before their expiration. If, in the judgment of the Council as to off-sale and on-sale licenses, and in the judgment of the Manager as to Manager's Licenses, good and sufficient cause for the applicant's failure to apply for a renewal within the time provided is shown, the Council, or Manager, as the case may be, may, if the other provisions of this Section are complied with, grant the license. In addition to the application requirements provided in Section 160 of this Code, applicants shall also provide the following:

A. The type of license the applicant seeks;

- B. A description of the type of business to be transacted on the licensed premises;
- C. Proof of financial responsibility with regard to liability imposed by M.S. 340A.801 in the manner and to the extent required by M.S. 340A.409. If the applicant claims exemption from the requirements of said Statute, proof of exemption shall be established by affidavit given by the applicant in form and substance acceptable to the Clerk;
- D. All forms and information required by the Police Chief, the Minnesota Department of Public Safety and the Minnesota Department of Revenue;
- E. Any affidavits of the applicant as required by the Clerk, on forms provided by the Clerk, in support of the application;
- F. Authorization to release information obtained in connection with the application;
- G. A statement signed by the applicant stating that he or she has reviewed and understands the pertinent provisions of this Section and State law;
- H. In the case of an application for a Wine License, On-Sale Intoxicating Liquor License or a Manager's License, the applicant shall provide evidence satisfactory to the Clerk as to compliance with the requirements of Subd. 3 of Subsection 900.12 as to the completion of an alcohol awareness program;
- I. In the case of an application for a Wine License or On-Sale Intoxicating Liquor License, the applicant shall provide evidence satisfactory to the Clerk as to compliance with the requirements of Subd. 4 of Subsection 900.12 as to the percentage of food sold on the licensed premises. This requirement shall be established by an affidavit of the licensee on a form provided by the Clerk. The affidavit shall be given with each application for issuance or renewal on a Wine License or an On-Sale Intoxicating Liquor License, or at other times as the Clerk may request. If the application is for the renewal of a Wine License or an On-Sale Intoxicating Liquor License, the affidavit shall also include the actual percentage of gross receipts attributable to the sale of food during the immediately preceding 12 month period. The Clerk shall require that any such affidavit be verified and confirmed, on a form provided by the Clerk, by a Certified Public Accountant. Failure or refusal of a licensee to give such affidavit with such application, or on request of the Clerk, or any false statement in any such affidavit, shall be grounds for denial, suspension or revocation of all licenses held by such licensee.
- J. In the case of an application for a temporary on-sale 3.2 malt liquor license, the applicant shall provide evidence satisfactory to the Clerk that the applicant complies with the requirements of Subsection 900.08 as to being a qualified corporation or organization;
- K. Any other information deemed necessary by the Manager to undertake consideration of the application.

**900.06 Consideration of Application; Public Hearing.** The provisions of Section 160 of this Code shall apply to all licenses required by Subsection 900.04 and to the holders of such licenses, provided that all licenses, except Manager's Licenses, shall be granted or denied by the City Council and the Commissioner, if required by State law. The City Council shall conduct a public hearing on the application for a new On-Sale Intoxicating Liquor License within a reasonable period following receipt of a complete application and completion of the investigation required by Subsection 900.05. A notice of the date, time, place and purpose of the hearing shall be published once in the official newspaper not less than ten days before the date of the hearing. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting. No hearing shall be required for the renewal or the transfer of an On-Sale Intoxicating Liquor license.

**900.07 Fees.**

**Subd. 1 Application Fee.** The annual license application fee shall be the amount set forth in Section 185 of this Code. When a new Wine License or On-Sale Intoxicating Liquor License is issued for a portion of a year, the annual license application fee shall be prorated at the rate of one twelfth of the license fee per month or portion of a month remaining in the license year at the time of application. The annual license application fee for a Wine License or for an On-Sale Intoxicating Liquor License may be refunded, less costs incurred by the City as determined by the Clerk, in the event that the application is withdrawn by the applicant or denied by the Council.

**Subd. 2 Refunds.** A monthly pro-rata share of the annual license fee for a Wine License or an On-Sale Intoxicating Liquor License issued pursuant to this Section may be refunded, less the cost of issuance as determined by the Clerk, if:

- A. The business permanently ceases to operate;
- B. The license is transferred to a new licensee in accordance with Subsection 900.13 and the City receives a license fee for the remainder of the license term from the transferee; or
- C. A premises licensed to sell wine receives an On-Sale Intoxicating Liquor License prior to the expiration of the Wine License. In this instance, a pro-rata share of the Wine License fee may be refunded.

**Subd. 3 Investigation Fees.** Upon application for a new or the transfer of an existing Wine License or On-Sale Intoxicating Liquor License, the applicant shall deposit \$500.00 with the City for the investigation fee. If the investigation requires an out-of-state investigation, an additional \$2,000.00 shall be deposited before further processing of the application by the City. The Clerk may from time to time require the deposit of additional investigation fees up to the limits provided herein before further processing of the application if the cost of investigation exceeds the amounts previously deposited. The cost of the investigation shall be based on the expense involved, but in no event shall it exceed \$500.00 if the investigation is

limited to the State or \$10,000.00 if outside the State. All deposited monies not expended on the investigation shall be refunded to the applicant. All investigative expenses incurred in excess of the deposit shall be paid prior to consideration of the license application by the Council. Investigation fees for license renewal shall not exceed \$200.00 unless there is a change of ownership of more than 10% cumulatively over the then existing license period.

900.08 Persons Ineligible for License. The following restrictions apply to any applicant who is a natural person, a general partner if the applicant is a partnership, or a corporate officer if the applicant is a corporation. No license shall be granted to:

A. Any manufacturer, brewer, or wholesaler as defined in M.S. 340A.101, or any manufacturer of 3.2 percent malt liquor, or to any person who has a financial interest, directly or indirectly, in such manufacturer, brewer or wholesaler.

B. Any person under the State established legal drinking age.

C. Any person convicted of any willful violation of any law of the United States or any provision of State Law or this Code with regard to the manufacture, sale or distribution of liquor.

D. Any person not eligible under M.S. 340A.402, the regulations of the Commissioner or Section 160 of this Code.

E. Any person who has (i) been convicted, within the five years prior to the application for a license, of any violation of any law of the United States, the State, or any other state or territory, or of any local ordinance with regard to: (a) the manufacture, sale, distribution or possession for sale or distribution of intoxicating liquor or other controlled substances as defined by State Statute, (b) gambling, (c) theft, or (d) vice; or (ii) had an intoxicating liquor license, including a wine on-sale license, revoked for any violation of any statutes, ordinances or regulations relating to the manufacture, sale, distribution or possession of liquor or wine.

F. Any person who has applied for or holds a federal wholesale or retail liquor dealer's special stamp or a federal or State gambling or gaming stamp or license.

G. Any person who is an employee or elected official of the City.

H. Any person who has falsified any information given either in the application or in the process of investigation.

I. Any person who upon renewal, has been found in violation of any provision of this Section or applicable State Law.

J. If an individual, any person who is not a U.S. citizen or resident alien.

K. Any person who is financially indebted to a person who is disqualified under this Subd.

L. If for a Temporary On-Sale Intoxicating Liquor License, any person who is not the holder of a Club On-Sale Intoxicating Liquor License or an On-Sale Intoxicating Liquor License.

M. If for a Temporary On-Sale 3.2 Percent Malt Liquor License, any person who is not a corporation or organization organized for service to the community, state, or nation, for social purposes, for the promotion of sports or for the promotion of persons to elective office, where the serving of 3.2 percent malt liquor is incidental to and not the main purpose of the organization; or charitable or religious corporations for and to which gifts are deductible from the income of the donor under the Internal Revenue Code of 1986, as now enacted or as supplemental or amended; and which have been in existence and actively engaged in programs intended to further and promote the purposes for which organized for a period of at least 18 consecutive months prior to the date application is made for such license. No corporation or organization shall be granted more than two such licenses in a calendar year and there shall be at least 30 days between the license issue dates.

N. If for an On-Sale Intoxicating Liquor License, any person who holds an interest in an On-Sale Intoxicating Liquor License or has made application for such a license for more than one location in the City. It is the intent hereof that no person may possess or hold an interest in more than one On-Sale Intoxicating Liquor License at one time in the City. For purposes hereof, "interest" includes any pecuniary interest in the ownership, operation, management or profits of the establishment, but does not include: i) bona fide loans, rental agreements, open accounts or other obligations held with or without security arising out of the ordinary and regular course of business or selling or leasing merchandise, fixtures or supplies to such establishment or ii) any interest of five percent or less in any corporation holding an On-Sale Intoxicating Liquor License. Provided, however, a person having an interest in two or more premises holding wine licenses issued by the City which were in effect on December 31, 1998, may apply for and the Council may grant an On-Sale Intoxicating Liquor License for each such premises.

#### **900.09 Places Ineligible for a License**

**Subd. 1 General Restrictions.** No off-sale or on-sale license shall be granted or renewed for:

A. Any property on which taxes, assessments or other financial claims of the State, County or City are due, delinquent or unpaid.

B. Any property on which the business is to be conducted is owned by a person who is ineligible for a license pursuant to Subsection 900.08

C. Any property located within 300 feet of a place of worship or an elementary, junior high or senior high school having a regular course of study accredited by the State. A location which holds a license under this Section shall not be declared ineligible for license renewal or transfer due to a place of worship or school that

was newly located in its proximity after license issuance. The provisions of this paragraph shall not apply to Temporary On-Sale 3.2 Percent Malt Liquor Licenses.

D. Any property where a license issued under this Section has been revoked during the preceding year unless the issuance of the license is unanimously approved by the Council then present.

E. Any property where the conduct of the business is prohibited by Section 850 of this Code.

F. Any property not eligible under M.S. 340A and the regulations of the Commissioner.

G. Any property used as a sexually oriented business as defined by Section 850 of this Code.

Subd. 2 Off-Sale 3.2 Percent Malt Liquor Licenses. In addition to the requirements of Subd. 1 of this Subsection, no Off-Sale 3.2 Percent Malt Liquor License shall be granted to any theater, recreation establishment, public dancing place or establishment holding an on-sale license.

Subd. 3 On-Sale 3.2 Percent Malt Liquor Licenses. In addition to the requirements of Subd. 1 of this Subsection, no On-Sale 3.2 Percent Malt Liquor License shall be granted for establishments other than (i) private clubs which have been incorporated for more than ten years and which own and operate club houses for their members in which the serving of such liquor is incidental to and not the major purpose of such club, (ii) restaurants, (iii) golf courses, (iv) the Edina Golf Dome, (v) bowling centers and (vi) hotels. The provisions of this Subdivision do not apply to Temporary On-Sale 3.2 Percent Malt Liquor Licenses.

Subd. 4 Wine Licenses. In addition to the requirements of Subd. 1 of this Subsection, no Wine License shall be granted to any establishment other than a restaurant located in the PCD-1, PCD-2, PCD-3 Subdistricts, the Mixed Development District or the Planned Office District as established by Section 850 of this Code.

Subd. 5 On-Sale Intoxicating Liquor Licenses. In addition to the requirements of Subd. 1 of this Subsection, no On-Sale Intoxicating Liquor License shall be granted to i) any establishment other than a restaurant or hotel located in the PCD-2, PCD-3 Subdistricts or the Mixed Development District as established by Section 850 of this Code, ii) any amusement or recreation establishment including amusement arcades, bowling centers, pool halls or establishments offering amusement devices as defined by Section 215 of this Code, iii) any establishment located in a building which also contains any dwelling units as defined by Section 850 of this Code, or iv) any establishment located in the PCD-2 Subdistrict which will contain more than 150 seats.

#### **900.10 General Restrictions; Conditions of Sale.**

**Subd. 1 Conduct.** Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of sobriety and order.

**Subd. 2 Age.** No wine or liquor shall be sold to any person under the State established legal drinking age, or to an intoxicated person, directly or indirectly.

**Subd. 3 Under Age Workers.** No person under the age of 18 shall serve or sell liquor or wine.

**Subd. 4 Gambling and Prostitution.** No licensee shall keep, possess or operate, or permit the keeping, possession or operation on the licensed premises, or in any room adjoining the licensed premises controlled by the licensee, any slot machines, dice or other gambling equipment as defined in M.S. 349.30, nor permit any gambling therein, nor permit the licensed premises or any room in the same or in any adjoining building, directly or indirectly under licensee's control, to be used as a resort for prostitutes or other disorderly persons; provided, however, that lawful gambling may be carried on if allowed by this Code and where allowed by a license issued pursuant to M.S. 349 or this Code.

**Subd. 5 Manufacturer or Distiller of Malt Liquor.** No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or brewer, as defined in M.S. 340A, of wine or liquor.

**Subd. 6 Open to Inspection.** All licensed premises shall be open to inspection by any police officer or other designated officer or employee of the City at any time there are persons within the licensed premises.

**Subd. 7 Hours of Sale.** The hours and days of sale shall be as set forth in M.S. 340A.504. Except, however:

A. Establishments holding a Wine License under this Section or establishments holding both an On-Sale Club Liquor License and a Sunday On-Sale License under this Section may sell intoxicating liquor or wine in conjunction with the sale of food between the hours of 10:00 A.M. and 12:00 midnight on Sundays, provided that the licensee is in conformance with the Minnesota Clean Air Act, and

B. Establishments holding both an On-Sale Intoxicating Liquor License and a Sunday On-Sale License may sell intoxicating liquor and wine in conjunction with the sale of food between the hours of 12:00 noon and 12:00 midnight on Sundays.

**Subd. 8 Hours of Consumption.** No liquor or wine shall be consumed by any person on, in or about a licensed premises more than 30 minutes following the time established by this Subsection for cessation of the sale of wine or liquor.

**Subd. 9 No Liquor or Wine in Non-Licensed Food Establishments.** Except as permitted by a license issued pursuant to this Section, no person shall take or carry any wine or liquor into any food establishment as defined in Section 720 of this Code.

**Subd. 10 Mixing or Sale for Mixing Prohibited.** Except as permitted by a license issued pursuant to this Section, no person shall mix with liquor or wine or sell for the purpose of mixing with liquor or wine, any soft drink, other liquor or beverage in any food establishment as defined in Section 720 of this Code.

**Subd. 11 Illegal to Permit Mixing.** Except as permitted by a license issued pursuant to this Section, no person shall consume, or permit the consumption, mixing or spiking of any beverage by adding to the same any liquor, in any building or place operated as a food establishment as defined in Section 720 of this Code. The fact that any person in any food establishment, as defined in Section 720 of this Code, sold any liquid or beverage to a person who thereupon and therein added to such liquid or beverage any liquor or wine shall be prima facie evidence that such liquid or beverage was sold by such person for the purpose of adding liquor or wine and shall be prima facie evidence that such person and the person's employer permitted the mixing or spiking of such liquid by adding wine or liquor.

**Subd. 12 Bottle Clubs Prohibited.** Except as permitted by a license issued pursuant to this Section, establishments or clubs that directly or indirectly allow the consumption or display of wine or liquor, or knowingly serve any liquid for the purpose of mixing with liquor or wine, shall be prohibited. Permits for bottle clubs issued by the Commissioner under M.S. 340A.414 shall not be approved by the Council.

**Subd. 13 Posting of License.** A license issued under this Section shall be posted in a conspicuous place in the licensed premises.

**Subd. 14 Compact and Contiguous Premises.** A license issued under this Section is only effective for the compact and contiguous space specified in the approved license application. No sales or consumption of wine or liquor shall be permitted beyond the licensed premises. The licensed premises shall not be increased in size or seating capacity during the then license period.

**Subd. 15 Sobriety and Order.** A licensee shall be responsible for the conduct of business being operated and shall maintain conditions of sobriety and order.

**Subd. 16 Adult Entertainment Prohibited.** The Findings, Purpose and Objectives of Section 1345 of the City Code are hereby incorporated by reference. No licensee shall permit any specified sexual activities, the presentation or display of any specified anatomical areas or the conduct of a sexually oriented business all as defined by Section 850 of this Code on the licensed premises or in areas adjoining the licensed premises where such activities or the conduct of such a business can be seen by patrons of the licensed premises.

**Subd. 17 State Law.** All applicable provisions of State Law shall be complied with in connection with the sale of wine and liquor.

**900.11 Special Requirements for the On-Sale of 3.2 Percent Malt Liquor.** In addition to the requirements imposed by Subsection 900.10, the following special requirements apply to the on-sale of 3.2 percent malt liquor:



**Subd. 1 Place of Serving and Consumption.** 3.2 percent malt liquor sold pursuant to a 3.2 percent malt liquor license shall be served and consumed at tables in the dining or refreshment room on the licensed premises and shall not be consumed or served at bars; provided, the same may be consumed or served at the following locations:

- A. At counters where food is regularly served and consumed.
- B. On decks, patios and other outdoor dining areas which are adjacent to the licensed premises.
- C. On grounds of a golf course.

**Subd. 2 Temporary Licenses.** The provisions of Subd. 1 of this Subsection do not apply to 3.2 percent malt liquor sold pursuant to a Temporary 3.2 Percent Malt Liquor License.

**900.12 Special Requirements for the On-Sale of Wine, Intoxicating Malt Liquor and Intoxicating Liquor.** In addition to the requirements of Subsection 900.10, the following special requirements apply to the sale of wine, intoxicating malt liquor and intoxicating liquor sold pursuant to a Wine License or and On-Sale Intoxicating Liquor License issued in accordance with this Section:

**Subd. 1 Licensed Premises.** The licensed premises must:

- A. Have an exclusive entrance from and exit to the exterior of the building in which the license premises is located or to a public concourse or public lobby, and have a physical barrier separating the licensed premises from other areas so as to prevent the passing of patrons other than through the required entrances and exits.
- B. Have a valid food establishment license issued pursuant to Section 720 of this Code and have adequate space, as determined by the Sanitarian, for the storage, preparation and handling or service of food and wine.
- C. The premises shall not have more than 15 percent of its seating capacity located at a bar or service counter.

**Subd. 2 Licensed Manager.** A manager licensed in accordance with this Section must be present and in charge of the licensed premises at all times that the premises is open for business.

**Subd. 3 Alcohol Awareness Training.**

- A. Within 30 days following the issuance of a new Wine License or a new On-Sale Intoxicating Liquor License, not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises shall have completed an alcohol awareness program approved by the Police Chief.

B. Not less than 75% of the employees authorized to serve or sell wine or liquor on the licensed premises must complete an alcohol awareness program approved by the Police Chief within 90 days prior to an application for license renewal for a Wine License or a On-Sale Intoxicating Liquor License.

C. An applicant for the issuance or renewal of a Manager's License must complete an alcohol awareness program approved by the Police Chief not more than 90 days prior to the date of application.

Subd. 4 Percentage of Food Sold. Not less than 60 percent of the restaurant's or hotel's gross receipts from the combined sale of food, non-alcoholic beverages, wine and liquor, on an annual basis, shall be attributable to the sale of food and non-alcoholic beverages.

Subd. 5 Limit of Alcohol Strength. No wine over 14 percent alcohol by volume may be sold or consumed on a premises holding a Wine License.

Subd. 6 Denied Sales or Consumption. No sales or consumption of wine or liquor shall be permitted beyond the licensed premises.

Subd. 7 Container Volume Restrictions. Wine may not be sold, served or consumed in containers larger in volume than one liter.

Subd. 8 Sale Prices. No licensee shall promote the consumption of wine or liquor on the licensed premises by any means or methods which result in prices which are less than those normally charged on the then regularly used menu, including, but not limited to, two-for-one or similar offers, prizes, coupons, games or barbers.

Subd. 9 Diluting, Changing, or Tampering with Wine or Liquor Prohibited. No licensee shall sell, offer for sale or keep for sale, wine or liquor in any original package that has been refilled or partly refilled. No licensee shall directly or through any other person, dilute, or in any manner tamper with, the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the premises by the licensee of any wine in the original package differing in composition, alcoholic content or type from the wine received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

Subd. 10 Sales in Hotels. No sale of wine or liquor shall be made to or in guest rooms of hotels unless:

A. The rules of such hotel provide for the service of meals in guest rooms;

B. The sale of such wine and liquor is made in the manner which conforms to the requirements of Subsection 900.12;

C. Such sales is incidental to the regular service of meals to guests in their rooms; and

D. The rules of such hotel and the description, location, and number of such guest rooms are fully set out in the license application.

900.13 Restrictions on Transfer of License. No license shall be transferred to any person or premises by the person or from the premises to whom and for which the license was granted, by any means whatsoever, including, without limitation, devise or descent or involuntarily by the operation of law, without the person and premises to whom and to which the license is to be transferred having first submitted an application containing all of the information required in an original application, and complying with all requirements for an original license, and receiving the approval of the Council, and where required, the Commissioner. Any change in the persons named in the original application or any change in the information in such original application shall be deemed a transfer for the purposes of this Section. Provided, however, the following changes shall not be deemed a transfer:

A. A change in the ownership of a limited partnership comprising 10% or less cumulatively of the limited partnership during the then license period;

B. A change in ownership of a corporation comprising 10% or less cumulatively of the stock owners during the then license period; or

C. A change in one of the corporation's officers during the term of the then license. Provided, however, the corporation shall give notice of a change in officer to the Clerk and the new officer shall comply with all requirements of this Section and Section 160 of this Code.

900.14 Penalties; Revocation or Suspension. The penalty and remedy provisions of M.S. 340A.415 are hereby adopted and made a part of this Code and shall be useable by the City to enforce this Section in addition to the provisions of Sections 100 and 160 of this Code. Provided, however, the hearing required by said Statute before a license can be suspended or revoked shall be before the Council and shall be held pursuant to the procedures set forth in Section 160 of this Code.

900.15 Inactive Licenses. The City Council may revoke an On-Sale Intoxicating Liquor License granted to an establishment which has i) failed to make satisfactory progress toward completion of the construction of a new licensed premises or ii) ceased operation for a period of six months or more. The provisions of Subsection 900.14 shall apply to such revocations.

900.16 Incorporation by Reference. The provisions of M.S. 340A. which are referenced in this Section are hereby adopted and incorporated by reference and made a part of this Section, including all regulations of the Commissioner which relate to such incorporated provisions of M.S. 340A.

Section 2. This Ordinance shall be in full force and effect upon passage and publication.

First Reading: February 16, 1999

Second Reading: March 1, 1999

Published in the Edina Sun Current: March 10, 1999

**Attest** \_\_\_\_\_

**City Clerk**

\_\_\_\_\_  
**Mayor**

Motion seconded by Member Faust.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Ordinance adopted.

Member Hovland stated he has the most difficulty with the fee ordinance personally. As he understands, license fees are to cover the cost of issuing the license, inspecting the premises, and regulating the premises. The Council is giving current wine licensees priority, who for the most part have a substantial history with the City. The City knows what kind of operators these licensees are and currently charges them \$1,000 for a wine license. Member Hovland stated he can not understand why these licensees should have to pay ten times the cost of their wine licenses for an intoxicating license. He understands the City patterned their license fee after the City of Bloomington, but he has not been convinced that Bloomington was a good example for Edina. For instance he does not know from Bloomington what percentage of their restaurants must have a 60% food component, or how bar space is limited in restaurants. Member Hovland stated he did not see, during the Police Chief's presentation, data that had a basis-in-fact from Edina. It was an adoption of the notions that came out of the City of Bloomington, not a stand alone determination of costs that Edina would directly incur in enforcing, inspecting and regulating these licensees. While Member Hovland realizes that Edina does not want to make a mistake, the Council has not even decided how many licenses they will issue. If only five licenses were issued, \$11,000 might be the right figure; however, until it is known how many licenses are going to be issued, the fee should be lower. This is the part Member Hovland is most uncomfortable with, and he stated his intention to vote against the fee ordinance because he did not believe that there was enough of a factual basis to be charging an \$11,000 fee for a liquor license.

Mayor Smith asked Member Hovland who he believed should pay the cost of researching the initial ordinance. He stated he shared Member Hovland's concerns, but would rather err on the side of collecting adequate fees. Mayor Smith said he has not believed that \$1,000 was ever adequate to cover the cost of administering wine licenses. He stated his belief that Edina needs to move forward at this time. Mayor Smith pointed out that Richfield is moving towards an \$11,000 fee and Bloomington has \$9,200 fee, but at the Mall of America also collects a liquor tax. He added this tax is not paid by shop keepers, but instead by customers. Mayor Smith asked how many licenses Richfield issued. Manager Hughes informed him Richfield issues seven licenses. Mayor Smith added that more licenses will reduce the cost of each license, and that the City's contribution on behalf of each of its off-sale stores will also tend to reduce the cost. However, Mayor Smith believes the fees can always be adjusted when the fees are reviewed in the fall.

Member Hovland commented that the people of the City of Edina voted on whether they wanted liquor in restaurants. Perhaps paying associated costs goes with the territory of being a citizen in a town. The same thing applies for the license cost, but it will be the consumers

who pay for the cost at any restaurant. Member Hovland said that he does not believe Edina can compare itself to other communities because the living circumstances are different in each entity. He acknowledged that he was somewhat persuaded to support the fee ordinance, because after his time serving with the Council Members he believes them to be reasonable. He believes the Council would give back money if it found the fees were excessive. Mayor Smith admonished that he would not support any kind of rebate; he would only support a lowering of fees for future years. Member Hovland asked what would happen if after tracking the data it is found that the actual fee should have been \$5,000 or \$6,000. Mayor Smith replied the Council will deal with that issue if and when it arises. Member Hovland reiterated that the license fee can only cover the costs of enforcing, inspecting, and regulating the individual proprietors. He expressed concern that the initially high fees would be used for enforcement with the general public which is not allowed under law.

Member Faust acknowledged that the \$11,000 fee is high; however, if the Police Chief believes it is reasonable, she would support it. Member Faust urged staff to keep good records and, if necessary, fees can be reviewed and lowered for future license fees. She believes the fee is not too high.

Mayor Smith reiterated he would be comfortable reducing, not rebating fees in the second year if at the annual review they were found to be high.

Member Maetzold shares the concern; however, his intuition tells him that \$11,000 is a satisfactory number. Member Maetzold stated he believes the fee should cover the cost of the initial licensing. He suggested reviewing the fee and enforcement costs later in the year to ascertain if fees are matching expenses. Member Maetzold related the experience of an acquaintance in a neighboring municipality who informed Member Maetzold of the enormous amount of time spent going through revocations and suspensions.

Member Hovland stated again that his only goal was to establish a fair fee. He added he felt he had insufficient information to determine what a fair fee should be. Member Hovland expressed concern that the Council had not received a basis-in-fact from staff to know what Edina's fees should be to cover the issuance, inspection and regulation of the on-sale intoxicating liquor licenses; for that reason, he feels he must vote against it.

**Member Maetzold moved second reading of Ordinance No.1999-5 as follows:**

**ORDINANCE NO. 1999-5**

**AN ORDINANCE ESTABLISHING THE  
ON-SALE INTOXICATING LICENSE FEES**

**THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:**

**Section 1. The following described fee is added to Schedule A of Code Section 185 as follows::**

SECTION	SUBSEC.	PURPOSE OF FEE/CHARGE	AMOUNT	FEE NO.
900	900.07 Subd. 1	On-Sale Intoxicating Liquor License	Per Year - \$11,000.00	206

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**Section 2.** This ordinance shall be effective after its adoption and publication according to law.

**First Reading:** February 16, 1999

**Second Reading:** March 1, 1999

**Published in the Edina Sun-Current:** March 10, 1999

**Attest**

\_\_\_\_\_  
**City Clerk**

\_\_\_\_\_  
**Mayor**

Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Maetzold, Smith

Nay: Hovland

Ordinance adopted.

Manager Hughes recommended that Council adopt the resolution giving preference to existing wine licensees who submit their on-sale intoxicating liquor license application until March 16, 1999 at 4:30 p.m.

Following a brief discussion **Member Hovland introduced the following resolution and moved its adoption:**

**RESOLUTION**

**WHEREAS, the City of Edina has adopted Section 900 of the City Code which regulates the sale of liquor and wine and provides for the licensing of establishments which sell liquor and wine; and**

**WHEREAS, the City of Edina has the authority pursuant to State Law to regulate the issuance of On-Sale Intoxicating Liquor licenses within its corporate limits; and**

**WHEREAS, the City of Edina may issue not more than 19 On-Sale Intoxicating Liquor Licenses pursuant to State Law; and**

**WHEREAS, no On-Sale Intoxicating Liquor Licenses other than Club On-Sale Liquor Licenses currently exist in the City; and**

**WHEREAS, the City Council finds it desirable to adopt guidelines which the City Council will follow in considering the issuance of On-Sale Intoxicating Liquor Licenses;**

**NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina the following guidelines are hereby adopted with respect to the issuance of On-Sale Intoxicating Liquor Licenses in the City:**

- 1. Priority for Licenses.** Until 4:30 P.M. on March 16, 1999, applications for On-Sale Intoxicating Liquor Licenses received from persons and for premises currently holding a valid On-Sale Wine License in the City issued on or before January 1, 1999, will be given priority for consideration. On-Sale Intoxicating Liquor Licenses shall be issued first to applicants with such a priority.
- 2. Issuance of Remaining Licenses.** Following the period referred to above, the City Council will establish additional guidelines for the issuance of any remaining On-Sale Intoxicating Liquor Licenses.

**BE IT FURTHER RESOLVED that the City Council reserves the right to amend from time to time the provisions of this Resolution.** Member Maetzold seconded the motion.

Adopted this 1<sup>st</sup> day of March, 1999.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Resolution adopted.

Wayne Kostroski, owner of Tejas, thanked the Council for their work. He asked for a point of information, what was the fee for the country club liquor licenses, if it was also \$11,000. Mr. Kostroski asked if the country club license fees should not be the same as on-sale licensees. Mayor Smith informed Mr. Kostroski that staff would look into the club fees. Mayor Smith stated that the City is paying a contribution from each of the City's liquor stores.

**ORDINANCE NO. 1999-6 ADOPTED - AN ORDINANCE AMENDING SECTION 145.03 OF THE EDINA CITY CODE INCREASING THE RECYCLING AND SOLID WASTE COMMISSION'S MEMBERSHIP TO SEVEN MEMBERS** Mayor Smith explained that he wished to appoint two student to the Recycling and Solid Waste Commission. In order to formalize these appointments Section 145.03 of the Code needs to be amended increasing the Commission's membership from six to seven.

**Member Maetzold made a motion to grant first reading to Ordinance No. 1999-6 also waiving second reading of the ordinance as follows:**

**ORDINANCE NO. 1999-6**

**AN ORDINANCE AMENDING EDINA**

**CODE SECTION 145 INCREASING**

**MEMBERSHIP OF THE RECYCLING AND**

**SOLID WASTE COMMISSION TO SEVEN**

**THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:**

**Section 1.** Subsection 145.03 of the Edina Code of Ordinances is hereby amended to read as follows:

**"145.03 Membership. The Commission shall consist of seven members appointed by the Mayor with the consent of a majority of the Council. Members of the Commission shall be residents of the City, shall be appointed for a term of two years and serve until a successor shall have been appointed. Upon termination of a member's term, that member's successor shall be appointed for the remainder of such term. Members of the Commission shall serve without compensation and may resign voluntarily or be removed by majority vote of the Council or pursuant to Section 180 of this Code. Commission members who discontinue legal residency in the City may be removed from office by the Mayor with the consent of a majority of the members of the Council."**

**Section 2.** This ordinance shall be in full force and effect upon passage and publication.

**First Reading: March 1, 1999**

**Second Reading: Waived**

**Published in the Edina Sun Current: March 10, 1999**

**Attest** \_\_\_\_\_

**City Clerk**

\_\_\_\_\_

**Mayor**

Minutes/Edina City Council/March 1, 1999

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Ordinance adopted.

**\*BID AWARDED FOR TOPDRESSING MIXTURE FOR GREENS AT BRAEMAR GOLF COURSE** Motion made by Member Maetzold and seconded by Member Faust for award of bid for topdressing mixture for greens at Braemar Golf Course to sole bidder, Leitners, Inc., at, and not to exceed, \$18,000.00.

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR TWO, 1999 FIVE GANG FAIRWAY REEL MOWERS FOR BRAEMAR GOLF COURSE** Motion made by Member Maetzold and seconded by Member Faust for award of bid for 2, 1999 Five Gang Fairway Reel Mowers for Braemar Golf Course to recommended low bidder, North Star Turf, Inc., at \$41,998.00, plus tax.

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR TWO, CHEVROLET TAHOE POLICE 4 X 2 UTILITY VEHICLES** Motion made by Member Maetzold and seconded by Member Faust for award of bid for two Chevrolet Tahoe Police 4 x 2 Utility Vehicles to Grossman Chevrolet under Hennepin County Cooperative Purchasing Contract #4616B8-232 at \$55,074.00.

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR THREE, 1999 FORD CROWN VICTORIA SQUAD CARS** Motion made by Member Maetzold and seconded by Member Faust for award of bid for three, 1999 Ford Crown Victoria squad cars to Superior Ford under Hennepin County Cooperative Purchasing Contract #5616A8-232, at \$62,058.00.

Motion carried on rollcall vote - four ayes.

**CLUB ON-SALE AND SUNDAY SALE LIQUOR LICENSES APPROVED** Manager Hughes stated the applications of both the Edina Country Club and Interlachen Country Club were completed and staff recommended Council consider approving renewal of the licenses. **Member Maetzold made a motion approving the Club On-Sale and Sunday Liquor License renewals for the Edina Country Club and Interlachen Country Club.**

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**ON-SALE WINE LICENSE RENEWALS APPROVED** Manager Hughes presented the list of restaurants holding on-sale wine licenses recommended for approval. Two restaurants were recommended with reservation, Ciatti's Italian Restaurant, no licensed wine manager on duty and Sidney's Pizza Café, no wine manager on duty on two occasions where a letter of warning was issued.

Max Wroten, 3986 Heathcote Road, Deephaven, Director of Operations for Sidney's Pizza Café, explained the policy of Sidney's is to rotate managers between stores. With not all of their restaurants located in cities requiring a licensed wine manager to be on duty at all times, during the rotation a new manager might be on duty. Mr. Wroten said Sidney's has paid



attention to these warnings and immediately put a new licensed wine manager on duty process into action.

Following a brief Council discussion, **Member Hovland made a motion approving On-Sale Wine License renewals for the following restaurants: Big Bowl Café, Ciatti's Italian Restaurant, Dayton's Boundary Waters Restaurant, D'Amico & Sons, Eden Avenue Grill, Good Earth Restaurant, Hawthorn Suites Edina, Locanda DeGiorgio Inc., Macaroni Grill, Pizzeria Uno, Rossini's Restaurant, Ruby Tuesday, Sidney's Pizza Café, Szechuan Star Restaurant, Tejas, Two Guys From Italy, and Yorktown Cinema Grill.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**3.2 BEER LICENSE RENEWALS APPROVED** Manager Hughes presented a list of applicants for renewal of their 3.2 beer licenses. All necessary documentation has been submitted for renewal, fees have been collected and the Police Department has given their approval.

**Member Maetzold made a motion approving issuance of beer license renewals as follows: ON-SALE 3.2 BEER LICENSES: Big Bowl Restaurant, Braemar Golf Course, Braemar Golf Dome, Chico's of the Midwest Inc., Ciatti's Italian Restaurant, Corelli's Pizza & Pasta, Davanni's Pizza/Hoagies, Dayton's Iron Horse Liquors Inc. Restaurant, Eden Avenue Grill, Hawthorn Suites Hotel, Locanda - DeGiorgio, Inc., New Hong Kong Kitchen, Pizzeria Uno, QCumbers Inc., Richards Golf Course, Rossini's, Ruby Tuesday, Sidney's Plaza Café, Szechuan Star Restaurant, TJ's Family Restaurant, Two Guys From Italy, Yorktown Cinema Grill; and OFF-SALE 3.2. BEER LICENSES: Holiday Stationstore #217, Jerry's Foods, Kenny's Market Deli, and Speedway SuperAmerica LLC.**

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**PUBLIC MOBILE DATA SYSTEM EXPENDITURES APPROVED** Police Chief Bernhjelm indicated at the February 16, 1999, meeting, the Council had directed staff to continue searching for funding sources to assure the implementation of the public mobile data system. Staff believes funding the 1999 operating costs which was one roadblock, can be covered with existing budget and project revenues. Due to the mid-year implementation, total dollars required for the CDPD system in 1999 will be approximately 60% of the amount previously discussed or \$7,200.00. Chief Bernhjelm said he understands the Council would allocate \$33,000.00 towards the Mobile Data System from the liquor store revenues.

Following a brief Council discussion, **Member Maetzold made a motion approving expenditures for the Mobile Data system to, 1) GECapital at \$176,714.00 to implement the system, and to 2) HTE Inc., at \$168,650.00 for laptop computers, mounting hardware, CDPD modems and the software suite per pricing through State Contract #400120, with funding through the Federal COPS M.O.R.E grant.** Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**\*ANNUAL BRIDGE CERTIFICATION APPROVED** Motion made by Member Maetzold and seconded by Member Faust accepting the Annual Bridge Certification report as presented.

Motion carried on rollcall vote - four ayes.

**RESOLUTION APPROVED - JOINT POWERS AGREEMENT BETWEEN BLOOMINGTON/EDINA AT WEST 77<sup>TH</sup> STREET FROM PARKLAWN TO MINNESOTA DRIVE** Engineer Hoffman reported the cities of Bloomington and Edina have met to discuss the improvements to West 77<sup>th</sup> Street between Minnesota Drive and Parklawn Avenue. The improvements are a part of the Marketplace development occurring on Minnesota Drive and Johnson Avenue adjacent to the Superior Storage site in Edina. The road improvements are estimated at \$746,424.73. Of the total, \$364,380.05 worth of road improvements would occur in Edina on West 77<sup>th</sup> Street.

In December 1998, the City Council approved the Edina portion of West 77<sup>th</sup> Street improvements WEST of Parklawn. The improvements were subject to the approval of a joint powers agreement being executed by Bloomington and Edina. All of the estimated \$746,424.73 worth of improvements will be financed by Bloomington per the agreement. The agreement between Bloomington and Edina would be that each party will do its portion of the 77<sup>th</sup> Street improvements by December 31, 2000, and each city will finance its respective portion and construct its respective portion. Edina will approve plans and specifications for the Bloomington portion in Edina. Upon completion of the project, Edina will maintain the improvements lying within Edina.

Engineer Hoffman noted abutting property owners to West 77<sup>th</sup> Street are aware of the project. There is no assessment to the property owners for the Bloomington portion. There may be a necessity to acquire easements and Edina staff will assist them.

Mayor Smith exited the Council Chambers.

Mayor Pro-tem Maetzold called for public comment. None was heard.

**Member Faust introduced the following resolution and moved adoption**

**RESOLUTION APPROVING**

**JOINT POWERS AGREEMENT BETWEEN**

**THE CITY OF BLOOMINGTON AND EDINA AT**

**WEST 77<sup>TH</sup> STREET FROM PARKLAWN TO MINNESOTA DRIVE**

**WHEREAS** the Cities of Bloomington and Edina are desirous of making certain improvements to West 77<sup>th</sup> Street from Parklawn Avenue to Minnesota Drive; and

**WHEREAS**, said improvements are part of the Marketplace development occurring on Minnesota Drive and Johnson Avenue adjacent to the Superior Storage site in the City of Edina; and

**WHEREAS** the total cost of said improvements is estimated at \$746,424.73, of which \$364,380.05 worth of improvements would occur in Edina on West 77<sup>th</sup> Street; and

**NOW, THEREFORE BE IT RESOLVED BY THE EDINA CITY COUNCIL** that the City Engineer be authorized to execute a joint powers agreement for the aforementioned improvements stating that:

1. Each City will finance and construct its respective portion of the 77<sup>th</sup> Street improvement;
2. Each City will complete their respective portion of the 77<sup>th</sup> Street improvement by December 31, 2000;
3. The City of Edina will approve plans and specifications for the Bloomington portion in Edina;
4. Upon completion Edina will maintain the improvements that lie within Edina.

**Adopted this 1<sup>st</sup> day of March, 1999.** Member Hovland seconded the motion.

Ayes: Faust, Hovland, Maetzold, Smith

Resolution approved.

**APPOINTMENTS AND RE-APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES**

Mayor Smith requested endorsement of his recommendations for appointments and re-appointments to various boards, commissions and committees with terms as follows:

<u>Name</u>	<u>Board/Committee/Commission</u>	<u>Term to:</u>
Michael Kelly	Re-appointed to Community Education Services Board	6/30/99
Jean Rydell	Re-appointed to Community Education Services Board	6/30/99
Patrick Wilson (C)	Community Health Services Advisory Board	2/1/01
Jan Borman (P)	Community Health Services Advisory Board	2/1/01
Floyd Grabiell	Park Board	2/1/00
George Klus	Park Board	2/1/00
Andrew Finsness	Park Board	2/1/02
Charles W. Mooty	Park Board	2/1/02
Linda Presthus	Park Board	2/1/02
Karla Sitek	Park Board	2/1/02
K.C. Glaser (Student)	Recycling and Solid Waste Commission	2/1/01
Shelly Lipetzky (Student)	Recycling and Solid Waste Commission	2/1/00

Mayor Smith noted vacancies exist on the Art Center Board and the Human Relations Commission at present. He encouraged the Council to submit the names of interested parties to him for consideration of appointment.

**Member Faust made a motion endorsing the appointments and re-appointments to the various advisory boards, commissions and committees as previously noted.** Member Maetzold seconded the motion.

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**\*PETITION RECEIVED REQUESTING STREET LIGHT INSTALLATION AT INTERSECTION OF ELLSWORTH DRIVE AND WOODDALE AVENUE** Motion made

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by Member Maetzold and seconded by Member Faust acknowledging receipt of a petition from residents in the area of Ellsworth Drive, Wooddale Avenue and Dunham Drive, requesting installation of street lighting at the intersection of Ellsworth Drive and Wooddale Avenue has been turned over to the Engineering Department for processing as to feasibility.

Motion carried on rollcall vote - four ayes.

CLAIMS PAID Motion made by Member Hovland approving payment of the following claims as shown in detail on the Check Register dated February 24, 1999, and consisting of 32 pages: General Fund \$267,044.22; Communications \$3,349.22; Working Capital \$13,155.68; Art Center \$12,682.76; Golf Dome Fund \$9,215.66; Swimming Pool Fund \$1,131.27; Golf Course Fund \$19,819.09; Ice Arena Fund \$4,750.32; Edinborough/Centennial Lakes \$14,692.47; Utility Fund \$304,487.10; Storm Sewer Utility Fund \$1,746.29; Liquor Dispensary Fund \$160,232.47; Construction Fund \$6,118.88; Park Bond Fund \$49,555.00; TOTAL \$867,980.43. Member Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

There being no further business on the Council Agenda, Mayor Smith adjourned the Council Meeting at 9:43 P.M.

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City Clerk